

SENATE BILL No. 469

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-24-5; IC 35-50.

Synopsis: Bias crimes. Allows an individual who suffers a personal injury or property damage because of a criminal offense or delinquent act to bring a civil action to recover damages, including punitive damages, if the person who committed the criminal offense or delinquent act that caused the injury or property damage selected the individual because of the individual's actual or perceived race, color, creed, disability, national origin, religion, sexual orientation, gender, or gender identity. Establishes a sentencing procedure that requires a court, when sentencing an individual who has committed a crime that is motivated by a bias against another individual's race, color, creed, disability, national origin, religion, sexual orientation, gender, or gender identity, to impose an additional fixed term of imprisonment not to exceed five years, if the offense is a felony, or three years, if the offense is a misdemeanor.

Effective: July 1, 2019.

Taylor G

January 14, 2019, read first time and referred to Committee on Rules and Legislative Procedure.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 469



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-24-5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]:
4 **Chapter 5. Civil Action for Victims of Bias Motivated Crimes**
5 **Sec. 1. This chapter applies only to causes of action that accrue**
6 **after June 30, 2019.**
7 **Sec. 2. As used in this chapter, "bias motivated offender" means**
8 **a person:**
9 (1) who:
10 (A) committed a:
11 (i) criminal offense; or
12 (ii) delinquent act that would be a criminal offense if
13 committed by an adult;
14 that injured an individual; and
15 (B) selected the individual as the victim of the criminal
16 offense or delinquent act because of the actual or perceived
17 race, color, creed, disability, national origin, religion,



1 sexual orientation, gender, or gender identity of the victim;
 2 or
 3 (2) who:
 4 (A) committed a:
 5 (i) criminal offense; or
 6 (ii) delinquent act that would be a criminal offense if
 7 committed by an adult;
 8 that damaged or otherwise affected property; and
 9 (B) damaged or otherwise affected the property because of
 10 the actual or perceived race, color, creed, disability,
 11 national origin, religion, sexual orientation, gender, or
 12 gender identity of the individual who owned or occupied
 13 the property.

14 **Sec. 3. If an individual suffers a pecuniary loss because of the**
 15 **commission of a criminal offense or delinquent act by a bias**
 16 **motivated offender, the individual may bring a civil action against**
 17 **the bias motivated offender who caused the loss.**

18 **Sec. 4. An individual bringing an action under section 3 of this**
 19 **chapter may seek to recover the following:**

- 20 (1) Actual, compensatory, and consequential damages,
 21 including damages for emotional distress.
 22 (2) Punitive damages.
 23 (3) The costs of the action.
 24 (4) Reasonable attorney's fees.

25 **Sec. 5. Notwithstanding IC 34-31-4, a parent or guardian of a**
 26 **child is liable for damages awarded under this chapter if:**

- 27 (1) the child is a bias motivated offender liable for damages
 28 awarded under this chapter;
 29 (2) the parent or guardian has custody of the child; and
 30 (3) the child is living with the parent or guardian.

31 **Sec. 6. This chapter does not limit a person's rights or remedies**
 32 **under any other state or federal law.**

33 SECTION 2. IC 35-50-1-2, AS AMENDED BY P.L.80-2018,
 34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2019]: Sec. 2. (a) As used in this section, "crime of violence"
 36 means the following:

- 37 (1) Murder (IC 35-42-1-1).
 38 (2) Attempted murder (IC 35-41-5-1).
 39 (3) Voluntary manslaughter (IC 35-42-1-3).
 40 (4) Involuntary manslaughter (IC 35-42-1-4).
 41 (5) Reckless homicide (IC 35-42-1-5).
 42 (6) Battery (IC 35-42-2-1) as a:



- 1 (A) Level 2 felony;
 2 (B) Level 3 felony;
 3 (C) Level 4 felony; or
 4 (D) Level 5 felony.
- 5 (7) Aggravated battery (IC 35-42-2-1.5).
 6 (8) Kidnapping (IC 35-42-3-2).
 7 (9) Rape (IC 35-42-4-1).
 8 (10) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 9 (11) Child molesting (IC 35-42-4-3).
 10 (12) Sexual misconduct with a minor as a Level 1 felony under
 11 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
 12 (13) Robbery as a Level 2 felony or a Level 3 felony (IC
 13 35-42-5-1).
 14 (14) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 15 or Level 4 felony (IC 35-43-2-1).
 16 (15) Operating a vehicle while intoxicated causing death (IC
 17 9-30-5-5).
 18 (16) Operating a vehicle while intoxicated causing serious bodily
 19 injury to another person (IC 9-30-5-4).
 20 (17) Child exploitation as a Level 5 felony under IC 35-42-4-4(b)
 21 or a Level 4 felony under IC 35-42-4-4(c).
 22 (18) Resisting law enforcement as a felony (IC 35-44.1-3-1).
 23 (19) Unlawful possession of a firearm by a serious violent felon
 24 (IC 35-47-4-5).
- 25 (b) As used in this section, "episode of criminal conduct" means
 26 offenses or a connected series of offenses that are closely related in
 27 time, place, and circumstance.
- 28 (c) Except as provided in subsection (e) or (f) the court shall
 29 determine whether terms of imprisonment shall be served concurrently
 30 or consecutively. The court may consider the:
 31 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
 32 (2) mitigating circumstances in IC 35-38-1-7.1(b);
 33 in making a determination under this subsection. The court may order
 34 terms of imprisonment to be served consecutively even if the sentences
 35 are not imposed at the same time. However, except for crimes of
 36 violence, the total of the consecutive terms of imprisonment, exclusive
 37 of terms of imprisonment under IC 35-50-2-8, ~~and~~ IC 35-50-2-10
 38 (before its repeal), **and IC 35-50-2-18** to which the defendant is
 39 sentenced for felony convictions arising out of an episode of criminal
 40 conduct shall not exceed the period described in subsection (d).
 41 (d) Except as provided in subsection (c), the total of the consecutive
 42 terms of imprisonment to which the defendant is sentenced for felony



1 convictions arising out of an episode of criminal conduct may not
2 exceed the following:

3 (1) If the most serious crime for which the defendant is sentenced
4 is a Level 6 felony, the total of the consecutive terms of
5 imprisonment may not exceed four (4) years.

6 (2) If the most serious crime for which the defendant is sentenced
7 is a Level 5 felony, the total of the consecutive terms of
8 imprisonment may not exceed seven (7) years.

9 (3) If the most serious crime for which the defendant is sentenced
10 is a Level 4 felony, the total of the consecutive terms of
11 imprisonment may not exceed fifteen (15) years.

12 (4) If the most serious crime for which the defendant is sentenced
13 is a Level 3 felony, the total of the consecutive terms of
14 imprisonment may not exceed twenty (20) years.

15 (5) If the most serious crime for which the defendant is sentenced
16 is a Level 2 felony, the total of the consecutive terms of
17 imprisonment may not exceed thirty-two (32) years.

18 (6) If the most serious crime for which the defendant is sentenced
19 is a Level 1 felony, the total of the consecutive terms of
20 imprisonment may not exceed forty-two (42) years.

21 (e) If, after being arrested for one (1) crime, a person commits
22 another crime:

23 (1) before the date the person is discharged from probation,
24 parole, or a term of imprisonment imposed for the first crime; or

25 (2) while the person is released:

26 (A) upon the person's own recognizance; or

27 (B) on bond;

28 the terms of imprisonment for the crimes shall be served consecutively,
29 regardless of the order in which the crimes are tried and sentences are
30 imposed.

31 (f) If the factfinder determines under IC 35-50-2-11 that a person
32 used a firearm in the commission of the offense for which the person
33 was convicted, the term of imprisonment for the underlying offense and
34 the additional term of imprisonment imposed under IC 35-50-2-11
35 must be served consecutively.

36 SECTION 3. IC 35-50-2-18 IS ADDED TO THE INDIANA CODE
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2019]: **Sec. 18. (a) As used in this section, "bias crime offender"**
39 **means an individual described in subsection (b).**

40 **(b) The state may seek to have an individual sentenced as a bias**
41 **crime offender by alleging, on a page separate from the rest of the**
42 **charging instrument, that the individual knowingly or**



1 intentionally:
2 (1) selected another individual injured; or
3 (2) damaged or otherwise affected property;
4 by an offense committed by the individual named as defendant in
5 the charging instrument because of the race, color, creed,
6 disability, national origin, religion, sexual orientation, gender, or
7 gender identity of the injured individual or of the owner or
8 occupant of the affected property.
9 (c) If an individual alleged to be a bias crime offender is
10 convicted of an offense, the court, at the sentencing hearing for the
11 offense, shall determine whether the individual is a bias crime
12 offender.
13 (d) If, after the sentencing hearing, the court finds that the
14 individual convicted of the offense that is the subject of the hearing
15 is a bias crime offender based on proof beyond a reasonable doubt,
16 the court shall sentence the individual to an additional fixed term
17 of not more than:
18 (1) five (5) years, if the offense is a felony; or
19 (2) three (3) years, if the offense is a misdemeanor;
20 to be added to the term of imprisonment imposed under this
21 chapter or IC 35-50-3.

